

BWM/ek4



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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates.

Application 12-04-019
(Filed April 23, 2012)

**E-MAIL RULING GRANTING MOTION OF CURE FOR PARTY STATUS WITH
GUIDANCE ON DEIR COMMENTS AND ISSUES FOR BRIEFS**

Dated June 29, 2015, at San Francisco, California.

/s/ BURTON W. MATTSON for
Gary Weatherford
Administrative Law Judge

A.12-04-019 BWM/ek4

From: Mattson, Burton

Sent: Monday, June 29, 2015 5:43 PM

To: ALJ Docket Office; ALJ Process; ALJ_Support ID

Cc: Rico, Andrew J.

Subject: A.12-04-019 Email Ruling Granting Motion of CURE for Party Status with Guidance on DEIR Comments and Issues for Briefs

The correct subject line and/or proceeding number is A.12-04-019.

ALJ Mattson

From: Mattson, Burton

Sent: Thursday, June 25, 2015 1:05 PM

To: michael@rri.org; rmcglathlin@bhfs.com; norm@montereycfb.com; ronweitzman@redshift.com; JRBobMcK@gmail.com; nisakson@mbay.net; GeorgeTRiley@gmail.com; attys@wellingtonlaw.com; tfrutchev@ci.pg.ca.us; dave@laredolaw.net; rcsg.carlos@gmail.com; ross@smwlaw.com; sarah.leeper@amwater.com; jr5@cpuc.ca.gov; MFogelman@FriedmanSpring.com; jfarrow@mrwolfeassociates.com; LarrySilver@earthlink.net; dcarroll@downeybrand.com; jminton@pcl.org; ek@a-klaw.com; jgeever@surfrider.org; kstrong@gordonrees.com; lminky@bhfs.com; sdamron@surfrider.org; filings@a-klaw.com; don.evans8@gmail.com; jdriscoll@allenmatkins.com; ACerasuolo@amwater.com; david.sousa@amwater.com; kevin.tilden@amwater.com; robert.maclean@amwater.com; tim.miller@amwater.com; pfindley@rbf.com; ahowe@surfrider.org; jshoaf@bhfs.com; rdrake@bhfs.com; ffarina@cox.net; mckeecj@co.monterey.ca.us; awhite@mclw.org; ChardavoyneDE@co.monterey.ca.us; janetb@montereybay.com; engellj@comcast.net; lhowrey@nheh.com; lhowrey@nheh.com; jason@burnettforcarmel.com; iga@att.net; jheitzman@mcwd.org; directorshriner@gmail.com; keith@mrwpca.com; paul@mrwpca.com; DStoldt@mpwmd.net; atersol@gmail.com; Catherine.Bowie@amwater.com; heidi@laredolaw.net; GeneralManager@mpccpb.org; lhorton@adamsbroadwell.com; Andrew.Homer@amwater.com; Nicholas.Subias@amwater.com; nina.suetake@amwater.com; rhm@landwater.com; Anna.Shimko@SedgwickLaw.com; Sigrid.Waggener@SedgwickLaw.com; rmuzzin@friedmanspring.com; EZigas@esassoc.com; BMooney@GordonRees.com; ldolqueist@manatt.com; VidhyaPrabhakaran@dwt.com; JMcTarnaghan@perkinscoie.com; jbrezack@brezack.com; erobinson@kmtg.com; blaising@braunlegal.com; red@eslawfirm.com; Richard.Svindland@amwater.com; ca.rates@amwater.com; Ungson, Chris; Koltz, Jonathan; Rauschmeier, Richard; vt4@cpuc.ca.gov; ako@cpuc.ca.gov; bwm@cpuc.ca.gov; gw2@cpuc.ca.gov; jzr@cpuc.ca.gov; jmi@cpuc.ca.gov; llj@cpuc.ca.gov; mz3@cpuc.ca.gov; pva@cpuc.ca.gov; rkk@cpuc.ca.gov; srt@cpuc.ca.gov; sst@cpuc.ca.gov; sr4@cpuc.ca.gov; ts2@cpuc.ca.gov

Cc: ALJ Docket Office; ALJ Process; ALJ_Support ID

Subject: R.12-04-019 Email Ruling Granting Motion of CURE for Party Status with Guidance on DEIR Comments and Issues for Briefs

ADMINISTRATIVE LAW JUDGE'S RULING

This ruling grants the motion of California Unions for Reliable Energy (CURE) to become a party. It also gives guidance and reminders to parties, including CURE, on comments for the Draft Environmental Impact Report (DEIR) and issues for briefs.

MOTION OF CURE

On June 22, 2015, the California Unions for Reliable Energy (CURE) moved to become a party. Oppositions to CURE's motion are raised by Monterey County Farm Bureau and Coalition of Peninsula Businesses. CURE's motion is granted.

While opponents contend the CURE motion is late, the Commission's Rules of Practice and Procedure do not limit the timeframe in which a person may move for party status. CURE states it does not seek to broaden the issues, nor to unduly delay the schedule. This distinguishes the proposed participation of CURE from that of others who have inquired about becoming a party. Opponents raise the concern that CURE's participation may impact existing Settlements. The concern is speculative, particularly given CURE's statement that it does not seek to broaden the issues, nor to unduly delay the schedule. The motion is reasonable and is granted.

MATTERS FOR COMMENTS ON DEIR AND ISSUES FOR BRIEFS

Parties, including CURE, are given guidance and reminders below regarding the matters to address in comments on the Draft Environmental Impact Report (DEIR) and those to address in briefs. This guidance responds to subjects raised in CURE's motion.

CURE says that it "seeks party status in order to participate in the environmental review process for the Project [Monterey Peninsula Water Supply Project], pursuant to the California Environmental Quality Act ("CEQA"), and any related cost issues that arise from the CEQA review." (Motion at 1.) These matters might involve each of two tracks in this proceeding. That is, the portions of this proceeding related to (a) CEQA and (b) the application for a Certificate of Public Convenience and Necessity (CPCN) are run on different, but parallel, tracks. (See, for example, the schedules adopted in Rulings dated June 28, 2012; August 29, 2012; May 30, 2013; and September 25, 2013.) The CEQA elements, including the draft and final Environmental Impact Reports (EIRs), are governed by CEQA, while the CPCN elements are governed by the Public Utilities Code. The Commission implements its CEQA duties through the Commission's Energy Division (ED). All matters related to CEQA and the EIR are handled by ED. The final EIR is then considered by the Commission as part of the application for a CPCN, with the formal proceeding conducted by the Administrative Law Judge Division. This is the Commission's standard procedure for such matters.

CURE does not need party status to submit comments on the DEIR pursuant to CEQA. Those comments are due July 1, 2015 and CURE, along with any member of the public, is welcome to submit comments. Those comments may address any and all elements of the DEIR, such as:

- significant environmental impacts of the proposed project
- mitigation measures/alternatives that will eliminate or lessen the impacts
- feasibility of mitigation measures and/or alternatives based on technical or legal considerations
- identification of an environmentally superior alternative, if any
- facts to challenge the conduct of the CEQA process and the completion of the EIR, if any

Only parties may file briefs. This ruling gives CURE party status, and CURE may file an opening brief (due July 14, 2015) and a reply brief (due July 29, 2015). Briefs are to address issues related to the Commission's consideration of applicant's request for a CPCN for the proposed project. Briefs may address legal and policy issues related to granting, conditional granting, or denying the CPCN. The issues are those scoped for the proceeding (see September 25, 2013 Assigned Commissioner Ruling at pages 2-3; these issues are in the first bullet category below) and may include more detail (see common briefing outline filed June 5, 2015; these issues are the second and third bullet categories below):

- is the proposed Project
 - required for the public convenience and necessity; and
 - a reasonable and prudent means of securing an adequate, reliable and cost-effective water supply that meets applicant's legal requirements for its Monterey District; and
 - would the granting of the application be in the public interest
- regarding the present and future public convenience and necessity
 - projected demand, plant size, operations
 - environmental impacts and mitigations

- groundwater models
- cost and financing issues
- benefits and overriding considerations as compared to significant and unavoidable impacts of the proposed project
- legal principles in support or opposition to the proposed project
- consideration of alternative projects
- jurisdictional issues related to the Governance Committee
- other CPCN factors
- was the EIR process conducted in compliance with the legal requirements of CEQA, and other CEQA issues (other than those that belong in comments on the DEIR)

CURE, and all parties, are reminded that the "appropriate place to critique the DEIR is in comments on the DEIR." (May 30, 2013 Ruling at 5.) Moreover, parties "may use the information in the DEIR to support their arguments on the issues to be addressed in their briefs; the briefs are not to be used for critiquing the DEIR." (Id.)

IT IS RULED that the June 22, 2015 motion of California Unions for Reliable Energy (CURE) to become a party is granted. In addition, CURE and all parties shall note the guidance and reminders stated in the body of this ruling regarding the matters to address in comments on the Draft Environmental Impact Report and those to address in briefs.

The Docket Office shall formally file this Ruling.

Burton W. Mattson, Administrative Law Judge for
Gary Weatherford, Administrative Law Judge